

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Second Floor - Room 210
8:30 a.m.
February 15, 2006

MINUTES

STAFF MEMBERS PRESENT:

Derek Miller, Division Director
Mark Fagergren, Director Education/Licensing
Jon R. Brown, Enforcement Director
Shelley Wismer, Assistant Attorney General
Renda Christensen, Board Secretary
Amanda Orme, Mortgage Education Secretary
Jody Colvin, Licensing Supervisor

COMMISSION MEMBERS PRESENT:

Dorothy M. Burnham, Chair
Maralee Jensen, Vice Chair
Bonnie Peretti, Commissioner
H. Blaine Walker, Commissioner
Doyle "Sam" Sampson, Jr., Commissioner

Guests

Curtis Bullock, UAR

The February 15, 2006, meeting of the Utah Real Estate Commission began at 8:45 a.m. with Chair Burnham conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The minutes for January 18, 2006 were found to need a correction on page 4. The correct sentence should read "...approximately 817 CE courses between mortgage and real estate." The minutes were approved with this correction.

DIVISION REPORTS

INVESTIGATIONS REPORT – Jon Brown

Mr. Brown reported on the Continuing Education audits the Division opened 10 new cases, and closed 48, leaving a total of open investigative files at 111.

In the month of January there were 33 investigative cases logged, 9 new cases opened, 18 cases closed, 14 complaints screened and closed (no case opened), leaving the number of open case files at 171. The breakdown on the new cases showed 8 were agency related, 6 were about loan fraud, 6 were on trust account problems, 5 were for

unlicensed activity, 3 were for accuracy on content of listing, and 5 were for misrepresentation.

The Commission asked what could be done to shorten the time to bring investigative cases to closure. Mr. Brown said it is time consuming to have a formal hearing. Director Miller said the process could be shortened if there was a rule change to allow the Commission to hold an informal hearing before the person renews their license. Currently the rule states that an informal hearing can be held on a renewal only. This means the person is still out practicing. To change the process, it would require a rule change by the Commission that would say what types of proceedings can be informal versus formal. Under the formal side is an investigation, and on the informal side is a renewal.

Ms. Wismer said there is a potential downside to changing the rule, and there is another solution to the problem. The Department could use an additional Administrative Law Judge, because the one we use currently is backlogged. If the cases were to go to the Commission, it would mean additional time to hear the cases which could mean day-long hearings. The Commission would also be at times ruling on legal issues. Either the Administrative Law Judge or Director Miller could assist the Commission in these matters. Director Miller agreed with Ms. Wismer on the amount of time involved.

Mr. Brown said he would like to see the all hearings be informal, because it would be a quicker process. He said all the Appraiser cases are informal. The Division would be able to control the calendar to move the process along. Mr. Johnson said when the Division has the opportunity to bring a case before the Commission based on the person's actions or their violation of statutes, the Commission knows what the rules and statutes are in the industry. Often it takes a reasonable amount of time to educate the Administrative Law Judge on why certain things are important to the Division. It would be a huge benefit to enforcement to be able to bring someone before the Commission in a timely manner.

A motion was made and unanimously passed to proceed to change the rules and regulations to allow for all hearings to be made informal. Ms. Wismer handed out a copy of the current rule and said the changes would be small. She said to speed up the process, they could just approve the changes and she could start the rulemaking process without the Commission having to see the draft rule a second time. This was made part of the motion, and was passed unanimously.

DIRECTOR'S REPORT – Derek Miller

Director Miller said there was another meeting of the TIC Task Force, and they have come up with a draft rule.

Representative Snow's bill will clarify an issue from last years TIC bill. The legislation that passed last year required people outside of the state of Utah who were buying a tenant-in-common property outside of the state, through someone who was not in the

state, that this person would somehow need to have a licensed real estate agent from Utah. Part of Representative Snow's bill would clarify this to say that if the buyer and the broker are both out of state, there would not need to be a licensed real estate agent from Utah involved. The intent of the legislation from last year was to protect the public in Utah. Commissioner Walker said as long as the transaction is a Reg. D product it is looked at by the Securities people and the SEC. This would protect the public.

Director Miller said other amendments in Representative Snow's bill would allow Commissioners to be appointed for two terms, rather than the current limit of one term. It would also include the language which would allow payment from a broker to an S Corp. instead of just to the individual agent. The other amendment would increase the fine from \$500 up to \$2,500 per violation. Director Miller wanted to thank Commissioner Walker for coming to the Committee and being prepared to speak on behalf on this piece of legislation.

There are some internal changes being made to improve Division processes. Director Miller said there are certain things the Division has to do. This includes processing license applications, renewals, and change cards. This might inhibit things we would like to do, like interacting with the public and answering questions. The Division is trying to work smarter on some of things we do, such as on-line renewals. Approximately 50% of licensees renew on-line now. The postcard renewals will start this month and that will direct people to renew on-line. If they can't renew on-line, it will direct them to where they can download the forms. The Division is looking seriously at allowing Principal Brokers to renew on-line. There are some issues with the trust accounts, but the process is being reviewed.

The biggest change that can be made at the Division to help processing, would be to move to a self-servicing change card. The system really needs to be automated. The Division would like to see a person get on-line and update their address and change their status. The problem we are dealing with is how a person can change their affiliation on-line. Director Miller asked the Commission to identify a Commission member or someone else, who would work with the Division who would be an expert in helping us brainstorm and work through some of these issues. The person should be a broker who is working with these processes on a daily basis.

Mr. Fagergren mentioned the large volume of just change cards the Division handles on a daily basis. Director Miller said currently there is approximately 1 ½ persons that just processes change cards, full-time. The one person is just doing change cards and the one-half person is dealing with just mistakes. If this were a self-servicing system, it would be the person entering their information in the system, so if there is a problem, it would be with what they had entered.

Mr. Fagergren said when Director Miller speaks to the Commission on the difference between on-line renewal and paper, there is a huge difference. On-line means the Division doesn't have to do anything. The person is renewed, the money taken, and

they get a temporary license. This frees up the Division up to do other work. If renewals are sent in by mail, the process is that the mail is first opened by someone, each check is then entered in, the stack is then reviewed for CE certificates. This means there is a two to three week delay in reviewing by mail or in person. Mr. Fagergren said there are only positive things happening with the on-line renewal process.

Chair Burnham said she had had some difficulty with entering in roster information on the Promissor website. The problem seemed to come from using an "o" instead of the number zero. Also, some individuals were still using their old license numbers, and the system would not recognize the information. Mr. Fagergren suggested she tell the students to check the Division website for the new license number, and to check their name. He said many people don't know what name is on their license, because they have been used to calling themselves by nicknames or short versions of their legal name. Chair Burnham said it was very difficult to read some information on the rosters, because the people would write instead of print their names. Mr. Fagergren said it is the student's responsibility to provide the proper information that is legible. He said the instructors should notify the students that if they want credit for the course, they had better know their name and license numbers. It is not the responsibility of the instructor to struggle over the rosters.

Mr. Fagergren said with CE banking now in place, when someone wants to check their account it will show all the courses they have taken from January to present. He also mentioned the Division would like to see the evaluations the students fill out.

Mr. Fagergren said he had the employees keep track of what they did during the first week of the month. They will also fill out the same forms at the end of the month to see the difference in volume. Director Miller said they chose the first week because the numbers would be lower. Examples given were front desk phone calls answered: 980, walk-in customers: 107; customer phone calls from staff: 1,116; customer e-mails: 297; change cards: 437; PLM applications reviewed: 230; and scanning: 286.

The Division Caravan will be covering outlying areas of the state. The schedule is on March 21, Price; March 22, Moab; March 23, St. George. People attending will receive 3 hours of CE credit. On March 24th they will be speaking to a group of Appraisers having a convention in St. George.

LICENSING HEARINGS

9:40	Robert Lee Youngblood II – Application for License
10:35	Jose Francisco Arvizu III – Application for License
11:00	Janna Woods – Application for License Scott R. Sabey, Attorney Babs DeLay, Principal Broker

Review of Criminal Convictions List for Commission Consideration:

Ada M. Hammon

Review of Stipulations

Robyn Bronson

David W. Heath - Approved

John Christian Sinclair

Kyle Ann Tratiak

EDUCATION/LICENSING REPORT – Mark Fagergren

Mr. Fagergren showed the Commission the new postcard renewals. Each sheet will hold four renewal cards. He compared this one postcard to the regular mail renewal forms which consisted of 4-5 pages plus 2 envelopes. It will also free up time of our employees to be able to work on other issues.

OTHER BUSINESS

Ms. Wismer passed out a copy of the 02/08/2006 draft of R162-11, Undivided Fractionalized Long-Term Estates. Ms. Wismer took the substance of what the TIC Task Force committee did and turned it into rule format. Director Miller said he sees this rule as the starting point, not the end point. The Division will hire a TIC investigator and the Commission will see some of these cases. The rule may require revisions, but he thinks this is a good solid starting point. A motion was made and passed unanimously to start this draft into the rulemaking process.

Mr. Johnson said the Division has reviewed 280 applications since November that have had a criminal history. The most serious will be scheduled before the Commission.

A motion to go into Executive Session was passed, and was held from 12:23 p.m. to 12:54 p.m.

RESULTS OF EXECUTIVE SESSION

Informal Hearings:

Robert Lee Youngblood II – Granted

Jose Francisco Arvizu III – Granted

Janna Woods - Granted

Stipulations:

Robyn Bronson – Approved

David W. Heath - Approved

John Christian Sinclair – Approved

Kyle Ann Tratiak - Approved

Criminal Convictions List:

Ada M. Hammon – Schedule for hearing

A motion was made and accepted to adjourn the meeting at 1:00 p.m.

